

with said seat to [alter the position of] position said horizontal axle with respect to said seat according to the angle β by which said seat is deployed.--;

--10. (Amended) The chair according to Claim 1, wherein said longitudinal axis makes a determined angle Beta with [the vertical,] a vertical plane, said underframe being assembled telescopically, a first element of said underframe carrying said seat and said strut, and taking up vertical forces, while a second element of said underframe takes up [the horizontal forces generated by the weight of the user] Those forces which are orthogonal to said vertical plane which are encountered when the chair is in use.--.

The above Amendments are made without prejudice.

REMARKS

Reconsideration and allowance of the above-identified application in view of this amendment and the following remarks are respectfully requested. By this Amendment, Claim 9 has been cancelled and Claims 1, 5, 7 and 10 have been modified to obviate the Examiner's stated objections relating to 35 U.S.C. §112, second paragraph. As a result of this Amendment, all claims are now rendered definite and the rejection under §112 should be withdrawn.

The following is in response to the claim rejections under 35 U.S.C. §§ 102 and 103 as stated in the Office Action.

Applicant respectfully traverses the rejection of claims 1, 3, 4, 6 and 8-10 under 35 U.S.C. 102(b) as anticipated by the Sherman patent 3,594,037.

Sherman relates to a folding seat for aircraft cabin attendants which solves three problems: i) it shall be inconspicuous and out of the way when out of use; ii) its rate of retraction shall allow the seat belts to retract within the frame before the seat is completely folded up; and iii) it shall resist to very high deceleration rates (about -5g).

Consequently, there is no possibility to determine a fixed rotation axis due to problem i) otherwise the seat would take a greater horizontal space, and the backrest would not be able to tilt at the opening of the seat. It also requires important support links (28, FIG. 1), and a set of side legs (26, FIGS. 1-2) shall abut against the back frame wall due to problem iii), which forbids any fixed rotation axis for the seat itself,

The mechanism includes an air spring (40) utilizing a variable air bleed to control the rate of actuation. The air spring acts as a brake to slow the retraction. One end of the air spring is fixed to the bottom of the frame, since it is referenced for the height of the seat as regard to the cabin bottom.

These problems are unknown in seats for equipping lecture theaters. The seat is retractable just for allowing the passage of a person and shall only resist to a high number of open-close cycles (which is not at all a problem in an airplane). The height of the seat shall not be referenced as regard to the bottom, due to the steps in a theater; this is possible since there is no problem

of high deceleration rates requiring abutting areas. For same reason, the rotation axis is fixed and not pivotally movable.

Consequently, the chair of Sherman highly differs from the chair of the invention, except in that they both include an air spring or gas strut. But what is claimed is not a chair having a folding seat acted by a gas strut, but actually such a chair having a particular mechanism structure.

Consequently, the intricate mechanism of the chair of Sherman does not teach or suggest the embodiment of the invention, which requires inventive step.

Applicant respectfully traverses the rejection of claims 2 and 5 under 35 U.S.C. §103(a) as unpatentable over Sherman in view of Vander Stel et al. 5,026,118. The further rejection of claim 7 under 35 U.S.C. §103(a) is being unpatentable over Sherman in view of Cluff, Patent 1,231,129; and the rejection of claim 11 under 35 U.S.C. §102(a) as being unpatentable over Sherman. In view of Betherum Patent 928,929.

Vender Stel discloses a seat for a child to be used with automobiles. Not the same technical field. Moreover, 35 (FIG. 3) may be a horizontal axle, but it moves with telescopic rod 60.

Cluff discloses a seat for theaters.. Nothing is suggested for braking the seat when it arises.

Betherum discloses a combined school desk and chair which may be adjusted vertically. This is the problem solved by the invention. And a combination of the teachings of Sherman and Betherum seems technically impossible.

The Office Action contains objections to Claims 8 (see bottom of page 3 and top of page 4) and Claim 9 under §112. It appears that the objections to Claim 8 should have stated "Claim 9", since the line 9 which is mentioned is actually the first line of Claim 9. These three objections have been rendered moot by the cancellation of Claim 9.

Paragraph No. 3 of the Office Action contains an objection to the oath. In a telephone interview with the Examiner on or about November 19, 2002, it was pointed out that the ground of objection stated in paragraph 3 is not applicable under the statute. Examiner agreed to withdraw this objection.

The objection in Paragraph No. 4 refers to the word "aeroplane." Applicant resists this objection as inappropriate and unnecessary. WEBSTER'S Ninth New Collegiate Dictionary (copyright 1988, Merriam Webster Inc.) lists the word "aeroplane" as being synonymous with "airplane." Based on this dictionary definition and the fact that it is common knowledge that "aeroplane" means "airplane." The requirement for the alleged correction should be withdrawn.

In view of the above Amendment and these remarks, Claims 1-8, 10 and 11 are submitted to be allowable as patentably

distinguishing over the applied references. Early and favorable action is solicited.

Respectfully submitted,

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